

SERVICE DATE – MARCH 17, 2006

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42088

WESTERN FUELS ASSOCIATION, INC., AND  
BASIN ELECTRIC POWER COOPERATIVE, INC.

v.

BNSF RAILWAY COMPANY

Decided: March 15, 2006

This decision instructs both parties to file supplemental evidence so that the Board will have a full record upon which to analyze the traffic group and operating plan issues that have been raised in this case.

In this proceeding, Western Fuels Association, Inc., and Basin Electric Power Cooperative, Inc. (WFA), challenge the reasonableness of rates charged by BNSF Railway Company (BNSF) for movements of coal from origins in the Powder River Basin (PRB) of Wyoming to Basin Electric's Laramie River Station (LRS) near Wheatland, WY. Extensive evidence has been submitted under the stand-alone cost (SAC) test set forth in Coal Rate Guidelines, Nationwide, 1 I.C.C.2d 520 (1985) (Guidelines), aff'd sub nom. Consolidated Rail Corp. v. United States, 812 F.2d 1444 (3d Cir. 1987). The SAC test seeks to determine the lowest cost at which a hypothetical, optimally efficient carrier – the stand-alone railroad (SARR) – could provide service to the complaining shipper, and to selected additional traffic that would use the same lines and facilities if the rail industry were free of barriers to entry or exit. Guidelines, 1 I.C.C.2d at 528.

The parties generally agree on the SARR's track configuration and traffic group. However, while both parties have relied upon the Rail Traffic Controller (RTC) model to simulate the operation of the SARR, each has submitted an RTC model simulation that reflects different views of how the SARR would provide service for its traffic group. For example, BNSF's RTC simulation models the occurrence of random outages (service disruptions caused by track, equipment and signal failures) and conflicts with Union Pacific Railroad Company (UP) trains at southern PRB mines and residual BNSF trains at northern PRB mines caused by the carriers' joint access to those mines. (Residual BNSF trains provide service for BNSF shippers not included in WFA's traffic group.) WFA, on the other hand, includes some, but not all of BNSF's proposed random outages, and does not model explicit conflicts with non-SARR trains at PRB mines in its RTC simulation. The failure of the parties to present evidence that can be compared and matched up against the other party's evidence leaves us with an incomplete

record. If we do not agree with the entire position of either party, we may be left without the evidence needed to complete our SAC analysis.

We need not be confined to the parties' evidentiary choices. When necessary to fulfill our responsibilities, we may seek additional evidence from the parties so that we will have an adequate record upon which to decide the case. Towards that end, the parties are directed to submit supplemental evidence based on the following set of assumptions:

- Use the traffic group tonnages contained in BNSF's Errata, filed August 25, 2005, with the following adjustment:
  - for the period 2006-2024, rely upon the most recent Energy Information Administration (EIA) Annual Energy Outlook (AEO) forecasts for Wyoming PRB low-sulfur (sub-bituminous) coal tonnage available as of the date of this order.
- Include all random signal outages contained in BNSF's Reply (RTC Model) Workpaper Evidence IIIB/RTC/SUBCANONJAN2004TO11-15-04 and IIIB/RTC/SUBORINJAN2004TO11-15-04 indicated by color coding in red, a total of 21 signal outages, with the following adjustment:
  - synchronize the time zone used in RTC Train file with the time zone in the random outages Form B file;
  - increase the slow order train speed limits from 10 mph to 20 mph.
- Exclude UP and residual BNSF train loadings contained in BNSF's Reply (RTC Model) Evidence.
- Use BNSF's Reply Evidence of 19.18 hours (17.68 hours arrival to release and 1.5 hours release to depart) for dwell time at the LRS unloading facility.
- Use WFA's Rebuttal Evidence dwell time for Guernsey Yard.

We note that the parties have relied upon different releases of the RTC model in submitting evidence in this case. In order to avoid any potential conflicts created by the use of different versions and releases of the RTC model, the parties are directed, within 15 days of this decision, to agree upon a single release of the RTC model to use in their supplemental evidence. This version and release must be available to all licensed RTC users. In each party's supplemental evidence, the RTC model should run to completion. The parties may make limited manual adjustments to the train schedules within the RTC model by holding trains at SARR yards longer than the scheduled dwell time to improve the operations of the SARR.

WFA should submit its supplemental opening evidence by May 15, 2006, BNSF should submit its supplemental reply evidence by June 15, 2006, and WFA should submit its supplemental rebuttal evidence by July 14, 2006. The parties' supplemental evidence must be confined to the issues discussed here; the parties may not use the supplemental submissions as an opportunity to address other issues in the case. Our request for information here should not be construed as a final resolution of any issue set forth in this order.

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The parties are directed to submit the supplemental evidence set forth in this decision. The supplemental evidence of WFA is due May 15, 2006, BNSF's reply is due June 15, 2006, and WFA rebuttal is due July 14, 2006.

2. This decision is effective on its date of service.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams  
Secretary